

Second Amendment under 37 C.F.R. § 1.116
Application Serial No. 10/699,519

REMARKS

By this Amendment, claims 47 and 49 are canceled without prejudice or disclaimer. Therefore, claims 37-46, 48, and 50-59 are pending in the application.

The previous submission of an Amendment, on September 30, 2005, was not entered because the Examiner took the position that the correction of a typographical error in dependent claim 49 somehow raised new issues that would have required further search or consideration. Applicants respectfully disagree. The requested claim amendment was an obvious typographical error that would not have affected the outstanding rejections of independent claims. In addition, the claim amendment should have been entered because such claim amendment that corrected an obvious typographical error only concerned matters of form and should have been entered because the Amendment merely placed the application in better form for appeal or allowance. MPEP §706.07(f).

Despite this improper action by the Office, Applicants now cancel claim 49 so that an action on the merits will occur.

Reconsideration and allowance of all claims are respectfully requested in view of the following remarks.

- Claim 47 stands rejected under 35 U.S.C. § 102(b) as being anticipated by *Hersom* (U.S. Patent No. 4,839,980). Applicants respectfully submit that the rejection is rendered moot by the present claim amendments.
- Claims 37-42, 44, 48, and 57-59 stand rejected under 35 U.S.C. § 103(a) as being obvious over *Wallin* (U.S. Patent No. 3,077,693) in view of *Hersom*. Applicants respectfully traverse the rejection.

The claimed light improves over conventional lights by uniquely providing a structure that is adaptable, modular, and that is able to be optimized, such as by minimizing the weight and space needed for a lighted, collapsible landing net.

The applied references, alone or in combination, fail to teach or suggest the claimed light that includes an LED, a light body for securing the LED at a position for illuminating the net, a rotary switch lens rotatably attached to the light body and having a light passage portion for passing light from the LED therethrough, the light passage portion being one of translucent and transparent, and a radially-aligned contact pair opened or closed by rotation of the rotary switch lens for on/off switching of electric power to the LED, as claimed in independent claim 37.

The *Wallin* device includes a center contact 25 of lamp base 22 engaged with the contact 26 in the inner wall or bottom of the socket 21 (e.g., col. 2: lines 9-11). Applicants respectfully submit that such amounts to a standard electrical connection of a bulb to the center conductor of a socket. *Wallin* also discloses a contact 29 centrally disposed on the end or rear end of the body 27 for contacting a center battery terminal (e.g., col. 2: lines 17-18, 26-27; Fig. 4). *Wallin* further discloses an electrical contact being made between the barrel 8 and a contact 30 via a slidable thumb switch 32 (e.g., col. 2: lines 20-22). *Wallin* also discloses a coil spring 34 in the rear end portion of barrel 8 for urging the batteries 33 forward (e.g., col. 2: lines 24-27). Applicants respectfully submit that none of these *Wallin* disclosures teaches or suggests "a radially-aligned contact pair opened or closed by rotation of the rotary switch lens for on/off switching of electric power to the LED," as claimed.

The ground of rejection (i.e., Office action, at page 4, lines 2-4) takes the position that a radially-aligned contact pair is somehow disclosed in *Wallin* by the structure identified with reference characters 26-33 (also citing "for example proximate 34-35 in figure 4"). Applicants respectfully disagree at least because the *Wallin* contacts are not radially aligned, as that term is used in the subject claims. Rather, the contacts of *Wallin* appear to be (1) standard bulb and battery contacts/terminals disposed along a center axis of a flashlight and (2) a contact in a slidable thumb switch.

The ground of rejection also takes the position (i.e., Office action, at page 4, lines 5-6) that the *Hersom* reference discloses an LED being as a light. Applicants respectfully disagree because the LED in *Hersom* is used for indicating current flow from the power source (e.g., batteries) and a contact strip (e.g., shock electrodes being used to disable a fish)(e.g., col. 1: lines 64-66; col. 2: lines 3-8; col. 3: lines 4-6 (including an LED in circuit 30 (Fig. 2))). Such a use of an LED in *Hersom* is as a 'battery indicator' and is unrelated to the subject claim limitations that require an LED illuminate the net and that require a structure adapted for passing light from the LED through a light passage portion.

Since the applied references, alone or in combination, fail to teach or suggest all the claim limitations, the Examiner's statement of alleged motivation is inapposite.

Since the claimed structure is missing from the applied references, Applicants can only conclude that the Examiner has engaged in improper hindsight analysis without consideration of the invention as a whole. *See In re Wesslau*, 147 USPQ 391, 393 (CCPA 1965) ("impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art"). There is nothing in the references to suggest "a radially-aligned contact pair opened or closed by rotation of the rotary switch lens for on/off switching of electric power to the LED," as claimed, and there is nothing in the applied references to suggest any use of an LED structured for "illuminating the net" (emphasis added).

Further, the lens 17 of *Wallin* is secured to the forward end portion of housing 11 with a flanged retaining ring 18 for securing the lens in position (e.g., col. 1: lines 66-69). A rotation of ring 18 and/or lens 17 would not effect any electrical switching. As shown in Figs. 1 and 3 therein, sleeves 37 are provided as an integral part of housing 11 for receiving end portions 38 of a net frame 39. Such disclosure teaches away from any use of a lens as a structure for opening or closing a radially-aligned contact pair by rotation of a rotary switch lens, because the Examiner's proposed modification would render the *Wallin* device unsatisfactory for its intended purpose of

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being waterproof and being adapted to function while submerged (e.g., col. 1: lines 14-15) if a rotation of housing 11 was attempted or if implementation of a lens type switch were attempted. See In re Gordon, 221 USPQ 1125 (Fed. Cir. 1984), cited in MPEP § 2143.01. There would have been no suggestion to have modified the *Wallin* device to attempt to achieve what is claimed and there would have been no likelihood of success because the combined references are missing several structures defined by the subject claim limitations.

Regarding independent claim 48, as discussed above, the applied references do not teach or suggest an illumination module having an LED secured therein and having a rotary switch lens structured for supplying electrical power to the LED when the rotary switch lens is rotated and for passing light from the LED therethrough, the illumination module being insertable into the net end of the pole.

The ground of rejection takes the position (i.e., Office action, at page 5, ¶4) that reference characters 34-35 of *Wallin* somehow disclose a rotary switch lens. Applicants disagree. Reference character 34 of *Wallin* is a coil spring and character 35 is a sealing ring or gasket. Such does not teach or suggest a rotary switch lens structured for supplying electrical power to the LED when the rotary switch lens is rotated and for passing light from the LED therethrough, as claimed in claim 48.

Since the applied references, alone or in combination, fail to teach or suggest all the claim limitations, the Examiner's statement of alleged motivation is inapposite.

Claims 38-46 are patentable at least by virtue of their respective dependencies from independent claim 37, and claims 49-57 are patentable at least by virtue of their respective dependencies from independent claim 48.

Regarding claim 58, the applied references, alone or in combination, fail to teach or suggest a light for illuminating the net, the light having a rotary switch lens for on/off switching of an LED in a module insertable into a distal end of the shaft, as is claimed. The references, as

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discussed above, do not teach or suggest a rotary switch lens or such as a structure that is a module insertable into a shaft. Since the applied references, alone or in combination, fail to teach or suggest all the claim limitations, the Examiner's statement of alleged motivation is inapposite.

Regarding claim 59, the applied references, alone or in combination, fail to teach or suggest an illuminating module inserted into the net end of the shaft, the illuminating module having an LED, or lens means for switching LED power on/off and for passing light from the LED through a transparent or translucent medium for illuminating the net, as is claimed. Since the applied references, alone or in combination, fail to teach or suggest all the claim limitations, the Examiner's statement of alleged motivation is inapposite.

For the above reasons, Applicants respectfully request the § 103 rejection of claims 37-42, 44, 48, and 57-59 be withdrawn.

- Claim 43 stands rejected under 35 U.S.C. § 103(a) as being obvious over *Wallin* in view of *Hersom*, and further in view of *Everett* (U.S. Patent No. 4,922,643). Applicants respectfully traverse the rejection.

The tertiary reference to *Everett* does not cure the above-described deficiencies of the primary and secondary references. Specifically, *Everett* also does not teach or suggest the claimed light that includes an LED, a light body for securing the LED at a position for illuminating the net, a rotary switch lens rotatably attached to the light body and having a light passage portion for passing light from the LED therethrough, the light passage portion being one of translucent and transparent, and a radially-aligned contact pair opened or closed by rotation of the rotary switch lens for on/off switching of electric power to the LED, as claimed in independent claim 37. Notably, the bobber of *Everett* does not have any on/off switch, but requires disassembly to prevent its LED from being energized (e.g., col. 1: lines 59-61).

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Since the applied references, alone or in combination, fail to teach or suggest all the claim limitations, the Examiner's statement of alleged motivation is inapposite.

Claim 43 is patentable at least by virtue of its dependency from independent claim 37. For the above reasons, Applicants respectfully request the § 103 rejection of claim 43 be withdrawn.

- Claim 46 stands rejected under 35 U.S.C. § 103(a) as being obvious over *Wallin* in view of *Hersom*, and further in view of *Tanikuro et al.* (U.S. Patent No. 4,809,458). Applicants respectfully traverse the rejection.

The tertiary reference to *Tanikuro* does not cure the above-described deficiencies of the primary and secondary references. Specifically, *Tanikuro* also does not teach or suggest the claimed light that includes an LED, a light body for securing the LED at a position for illuminating the net, a rotary switch lens rotatably attached to the light body and having a light passage portion for passing light from the LED therethrough, the light passage portion being one of translucent and transparent, and a radially-aligned contact pair opened or closed by rotation of the rotary switch lens for on/off switching of electric power to the LED, as claimed in independent claim 37. Notably, *Tanikuro* uses a light sensor for automatic switching on/off of a light emitting element, which does not teach or suggest a radially-aligned contact pair opened or closed by rotation of the rotary switch lens for on/off switching of electric power to the LED, as claimed in independent claim 37.

Since the applied references, alone or in combination, fail to teach or suggest all the claim limitations, the Examiner's statement of alleged motivation is inapposite.

Claim 46 is patentable at least by virtue of its dependency from independent claim 37. For the above reasons, Applicants respectfully request the § 103 rejection of claim 43 be withdrawn.

- Claims 50-56 stand rejected under 35 U.S.C. § 103(a) as being obvious over *Hersom* in

view of *Hansen* (U.S. Patent No. 6,000,808). Applicants respectfully traverse the rejection.

The applied references, alone or in combination, fail to teach or suggest "an illumination module having a light emitting diode (LED) secured therein and having a rotary switch lens structured for supplying electrical power to the LED when the rotary switch lens is rotated and for passing light from the LED therethrough, the illumination module being insertable into the net end of the pole," as claimed in independent claim 48.

The *Hersom* reference is discussed herein above and does not teach or suggest what is claimed. Specifically, *Hersom* does not include any lens at all, does disclose any switch for a light 36, does not teach or suggest an illumination module, does not teach or suggest a rotary switch lens structured for supplying electrical power to the LED when the rotary switch lens is rotated and for passing light from the LED therethrough, and does not teach or suggest such an illumination module being insertable into the net end of the pole.

Hansen discloses a fishing pole having a switch and a light source at a handle end, and a light-transmitting element extending from the light source along the length of the pole, for illuminating the length of the pole and/or the pole tip (e.g., col. 1: lines 38-41). Such disclosure fails to cure the above-noted deficiencies of the primary reference.

Since the references, alone or in combination, fail to teach or suggest all the claim limitations, the Examiner's statement of alleged motivation is inapposite. Claims 50-56 are patentable at least by virtue of their respective dependencies from independent claim 48. For at least these reasons, Applicants respectfully request the § 103 rejection of claims 50-56 be withdrawn.

- In addition to the above discussion, Applicants respectfully submit that the applied references fail to teach any of the claimed structural limitations of the subject dependent claims. Specifically, the applied references, alone or in combination, fail to teach or the light body having a first lengthwise portion adapted for being inserted into the shaft of the fish landing apparatus and has a second lengthwise portion with a peripheral edge part wider than the shaft,

the second lengthwise portion being adapted for abutting a distal end of the shaft, as claimed in claim 38, the first lengthwise portion of the light body having an outer surface shape that effects a keying structure, as claimed in claim 39, the light body having a light-emitting end having an interior surface with an annular groove, wherein the rotary switch lens has an annular ridge structured to fit within the annular groove, as claimed in claim 40, a brightness of the LED being set to a level of non-disturbance of a fish, as claimed in claim 41, a brightness adjuster structured for changing a light illumination level of the LED by rotation of the rotary switch lens, as claimed in claim 44, such a brightness adjuster having a plurality of rotary switch positions accessed by the rotation of the rotary switch lens, and having an illumination level control member structured for adapting the LED to a plurality of brightness levels corresponding to the plurality of switch positions, as claimed in claim 45, the net end of the pole having an interior surface with a key, the illumination module having an exterior surface with a shape corresponding to the key of the pole, whereby the illumination module may only be inserted into the net end of the pole in an orientation aligning the shape with the key, as claimed in (now canceled) claim 49, at least one frame member having a surface opposed to the illumination module and having disposed on the surface at least one of reflective tape and reflective coating, as claimed in claim 50, the at least one of reflective tape and reflective coating contains fluorescent pigment, as claimed in claim 51, an optical filter for filtering light emitted by an excitation of the fluorescent pigment, as claimed in claim 52, the at least one of reflective tape and reflective coating containing pigment replicating a fish-friendly environment, as claimed in claim 53, the at least one of reflective tape and reflective coating containing a pigment in a pattern that replicates a fish-friendly environment, as claimed in claim 54, such a pattern having a spatial arrangement comprising one of two-dimensional and three-dimensional, as claimed in claim 55, the illuminator having a light beam shaper for focusing a light beam emitted from the illuminator on the at least one of reflective tape and reflective coating, as claimed in claim 56, or a clamp structured for attaching the illumination module to the fish landing net, as claimed in claim 57.

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Request for Interview

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly **requested to call** the undersigned at the telephone number listed below.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee, except for the Issue Fee, for such extension is to be charged to Deposit Account No. 10-0270.

Respectfully submitted,



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